XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	M.A(C) No.1188 of 2007	
	Appellants 1. Neera Bai, Wd/o Late Manoj Kumar Satnami, aged about 29 years 2. Ku.Prabha, d/o late Manoj Kumar Satnami, aged about 9 years, 3. Roshan Kumar, s/o late Manoj Kumar Satnami, aged about 7 years 4. Ku. Divya, d/o late Manoj Kumar satnami, aged about 9 years, Minor appellant no.2 to 4 represented by their natural Guardian and mother Smt. Neera Bai, Appellant No.1 All residents of Deo Baloda, Thana, bhila-3, Tehsil and Distt. Durg (C.G) ***Versus***	
	RESPONDENTS 1 Mohan Das Sonwani (Panka), s/o Ramcharan Das, aged about 48 years, r/o Manish Bhawan, Shankar Nagar Kumhari, Thana Kumhari, Tehsil Dhamdha, Distt. Durg (Driver and Owner of the Vehicle Truck bearing Regn.No. C.G.07-C-3876) **2** Branch Manager, The Oriental Insurance Company Limited, Divisional office, P.B. 51, Malviya Nagar, Durg, (Insurer of the Vehicle Truck bearing Regn.No.C.G.07-C-3876) (C.G).	

XI-HC—78

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(37)

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Misc. Appeal u/s 173 of the Motor Vehicles Act.

Appearance:

Shri Sameer Singh, counsel for the appellants.

D.B: **Hon'ble Shri Justice L.C. Bhadoo, J &**
Hon'ble Shri Justice Sunil Kumar Sinha, J.

ORAL ORDER
(23.10.2007)

L.C.Bhadoo, J,

Heard.

The claimants are wife and minor children of late Shri Manoj Kumar Satnami, who died in Truck accident on 21.10.2006 have preferred this appeal u/s 173 of the Motor Vehicles Act, 1988, being aggrieved by the award dated 29.3.2007 passed by 5th Addl. Motor Accidents Tribunal, Durg, in claim case No.223/2006 whereby and whereunder the learned Claims Tribunal awarded the loss of dependency to the tune of Rs.3,84,000/-. In addition to this, the Tribunal has also awarded Rs.5000/- for loss of consortium, Rs.15,000/- for love and affection towards minor children, Rs.2500/- for funeral expenses, thereby in all Rs.4,08,500/- has been awarded with 6% interest on the said amount from the date of claim application i.e., 06.12.2006.

The main grievance of the counsel for the appellants is that on the date of incident, the deceased namely Manoj Kumar Satnami was working as helper in the Truck in question and

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

he was earning Rs.6000/- per month whereas his income has been assessed as Rs.3000/-. Further argument is that the deceased was aged about 35 years, therefore, a multiplier of 17 ought to have been applied instead of 16. He also submitted that the loss of dependency has been assessed as 2/3rd which ought to have been 3/4th.

Coming to the first argument, in Para 12 of the award the learned Tribunal has held that except the applicants' evidence, no other evidence has been produced in order to establish the income of the deceased and it has been further held that he was working as helper, therefore, in the normal circumstances, he must be getting Rs.3000/- per month. Hence, this finding of the Tribunal cannot be said to be perverse or unreasonable looking to the material available on record.

Coming to the second point, the Tribunal has observed that as per the postmortem report Ex.P.6, the age of the deceased was 35 years, the same has also been mentioned in claim petition (para 3) that he was 35 years and as per the second schedule, in case the age is above 35 years but not exceeding 40 years, multiplier of 16 has to be applied. Therefore, the correct multiplier has been applied by the Tribunal on the basis of material and there is no material on record to establish that on the date of accident, the deceased was below 35 years.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(39)

मामला क्रमांक MAC/1281/07 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
DV	Now coming to the 3rd argument, admittedly the deceased has left behind his wife namely Neera Bai aged about 29 years, 3 minor children namely Ku. Prabha, aged about 9 years, Roshan Kumar aged about 7 years & Ku. Divya aged about 2 years and the Tribunal has reached to the conclusion that the deceased must be spending at-least 1/3rd on his personal expenses and remaining 2/3rd has been assessed as loss of dependency looking to the age of the minor children. We are of the considered opinion that the Tribunal has rightly assessed the loss of dependency as 2/3rd on the basis of age of the minor children and units, therefore, all the points raised by the counsel for the appellants are devoid of merits as the compensation awarded by the Tribunal looking to the totality of the facts and circumstances of the case, is just and reasonable. The appeal being devoid of merits is liable to be dismissed, and the same is hereby dismissed at the motion stage itself. **Sd/-** **L.C. Bhadoo** **Judge** **Sd/-** **Sunil Kumar Sinha** **Judge**	
Rao		